

EXHIBIT 6(b)

accepted by the Village of Pomona. [Amended 6-26-2000 by L.L. No. 4-2000]

- (2) The performance bond or security agreement to be delivered by the applicant to the Village of Pomona shall authorize payment to the Village of Pomona upon written certification of the Planning Board Chairman that the final road wearing courses and sidewalks have not been completed to the satisfaction of the Planning Board within the earlier of the following two periods: three years from the date of filing of the final subdivision plat or six months from the date of issuance of the building permit for the last lot other than the final 10% of all lots. Such performance bond or security agreement shall authorize payment to the Village of Pomona in the event that the installation of such final road wearing courses and sidewalks have caused damage to public or private property not under the ownership of the applicant. Such payments shall be in the aggregate amount of all expenses incurred by the Village for the provision of final road wearing courses and sidewalks and for the cost of the aforementioned damage, if any. In the event that the applicant has elected to deposit cash with the Village of Pomona in lieu of a performance bond or other security agreement, the Village shall be authorized to pay for the expenses of provision of final road wearing courses and sidewalks and damages, if any, out of such cash, and any excess cash remaining after the completion of such final improvements and payment of such damages shall be returned to the applicant.

- D. Failure to complete improvements. Where a performance bond or security agreement is not filed and all required improvements are not completed within the period specified in the Planning Board resolution of approval or as set forth hereinabove, such approval shall be deemed to have expired unless, upon request of the applicant, the period has been extended by resolution of the Planning Board. Where such performance bond or security agreement has been filed and all required improvements are not completed within the time specified by the Planning Board and set forth in said bond or agreement, and if no application for the extension of such period and bond or agreement has been made by the applicant and approved by the Planning Board, the Board of Trustees shall notify the applicant of the expiration of such specified term and of the action it proposes to take to complete such improvements. Not less than 30 days from such notification, the Board of Trustees may declare the performance bond or security agreement in default, arrange for the completion of such improvements by a contractor or contractors of its choice and pay for such improvements by drawing from the proceeds of such bond or agreement. The Board of Trustees shall have absolute authority to select the contractor or contractors to complete such improvements, and the applicant shall have no recourse against the Village for any claims whatsoever resulting from the selection of contractors. By submitting an application for final plat approval, each applicant shall be deemed conclusively to have consented to the provisions of this section.

E. Modification of letter of credit.

- (1) Extension of period specified in letter of credit. The time period specified for the completion of all required improvements, as set forth in the letter of credit, may be extended only by resolution of the Planning Board upon request by the applicant setting forth, in detail, the amount of work which has been completed,

reasons for failure to complete the remainder of the work within the specified period, the maximum estimated time required to complete the remainder of the work and the time period extension which is requested.

- (2) Reduction of letter of credit. An applicant may request, in writing, that the Planning Board authorize a reduction in the amount of the letter of credit. Such request shall itemize the extent of required improvements already completed, the estimated cost of improvements remaining to be completed and the amount of the letter of credit reduction requested. Then, upon approval of the Board of Trustees, the Planning Board may, if it determines that sufficient required improvements have been installed to warrant such action, reduce the amount of the letter of credit to an appropriate amount so that the new amount will cover the cost in full of all required improvements remaining to be completed.
- F. Modification of requirements. If, at any time, either before or during the course of construction of the required improvements, it is determined by the Planning Board that unforeseen conditions make it necessary to modify the location or design of any improvements, the Board may modify the terms and conditions of the approval of the final subdivision plat so as to require such changes as may be necessary to comply with the spirit and intent of the Board's original approval and to conform to accepted engineering practices. If such modification affects the scope of work covered by a letter of credit, the Board may require or allow appropriate modification of such letter of credit.

§ 118-14. Inspection of improvements.

The Village Engineer or his designee shall be responsible for inspecting required improvements during construction to ensure their satisfactory completion and, upon such completion, shall furnish the Planning Board with a statement to that effect. If the Village Engineer determines that any of the required improvements have not been constructed in accordance with the approved plan, the applicant shall be responsible for properly completing said improvements. Failure of the Village Engineer to carry out inspections of required improvements during construction shall not in any way relieve the applicant or the bonding company of their responsibilities related to the proper construction of such improvements.

A. Inspection of stages of construction.

- (1) To facilitate inspection of required improvements during construction, the applicant shall notify the Village Engineer or his designee at least three working days before reaching each of the following stages of construction:
 - (a) Rough grading completed.
 - (b) Drainage and other underground facilities installed, but prior to backfilling.
 - (c) After gravel base is spread and compacted.
 - (d) When each paved course is being applied.

(e) After completion of all improvements.

- (2) The applicant shall not proceed to work on any stage subsequent to the first stage until the work of the previous stage has been inspected and approved by the Village Engineer or his designee. In the case of any other improvements, the Village Engineer or his designee shall inspect the work at such progressive stages as he shall specify, and he shall certify to the Planning Board that the work was inspected by him and was in accordance with the approved plans and specifications.
- B. Certificate of construction. At such time as the applicant has completed construction of all required improvements, he shall furnish to the Village Engineer three copies of as-built plans and profiles which show the actual location of all paved streets, culverts, headwalls, drains, manholes, catch basins, sidewalks, curbs, utility lines and equipment, monuments, street signs, street trees and all other required improvements, as constructed, and all other pertinent information, such as cross sections of the streets at intervals determined by the Village Engineer, the culvert and drain grades, sewer grades, sidewalk and curb grades and invert elevations at manholes. Such plans and profiles shall bear a dated certification by a professional engineer or licensed surveyor to the effect that the data shown thereon was accurately determined by field survey. If the location or accuracy of improvements does not, in the opinion of the Planning Board, fully comply with the approved construction plans and specifications, the Planning Board shall have the right to refuse to sign the final plat or release the bond until such situation is corrected.
- C. Inspection fee. To offset the costs incurred by the Village in conducting inspections, all applicants for approval of submissions involving the construction of streets and/or other improvements shall be required to submit an inspection fee, payable to the Village of Pomona, as shown on the fee schedule adopted by the Board of Trustees.⁶¹ [Amended 2-28-1994 by L.L. No. 1-1994]

§ 118-15. Maintenance of improvements.

The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks, including the cost of streetlighting, if required, until acceptance of said improvements by the Board of Trustees. If there are any certificates of occupancy on a street not dedicated to the Village, the Village may plow the street or effect emergency repairs and charge same to the developer. The applicant shall be required to file a letter of credit with the Board of Trustees, prior to dedication, in an amount considered adequate by the Village Engineer and in a form satisfactory to the Village Attorney, in order to assure the satisfactory condition of the required improvements for a period of two years after the date of their acceptance by the Board of Trustees and dedication of same to the Village.

§ 118-16. Future status of streets, parks and easements.

- A. Offers of cession. All streets, parks and easements shall be indicated on the plat. In accordance with § 7-732 of the Village Law, the applicant may add as part of the plat

⁶¹. Editor's Note: See Ch. 67, Fees.

a notation, if he so desires, to the effect that no offer of dedication of such streets or parks, or any of them, is made to the public. All offers of cession to the public of all streets and parks not so marked shall be filed with the Planning Board at the time of submission of the final application.

- B. Petition for dedication. Upon completion of the subdivision and the road(s), a petition in the form required by the Board of Trustees shall be filed with such Board for the acceptance of parks or any other reservations or easements.
- C. Acceptance by Village. Acceptance of any offer of cession of streets or parks shall rest with the Board of Trustees. In the event that the applicant shall elect not to file the plat in the office of the County Clerk within the period prescribed for such filing, then such offer of cession shall be deemed void. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute nor imply the acceptance by the Village of any streets, parks or other areas shown on said plat, and the Planning Board may require the addition of appropriate notes to this effect on the plat.
- D. Maintenance. In the event that no offer of cession to the public is made for the streets, parks and required easements shown on the plat, there shall be submitted with the final application copies of agreements or other documents providing for the suitable maintenance of such facilities and a statement of all rights which exist with respect to each of them. The adequacy of such documents shall be subject to Planning Board approval.

§ 118-17. Waiver of required improvements.

The Planning Board may waive, subject to appropriate conditions, the provision of any or all such improvements and requirements as in its judgment of the special circumstances of a particular plat are not requisite in the interest of the public health, safety and general welfare, or which in its judgment are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

§ 118-18. Deferral of required improvements.

When it is deemed necessary by the Planning Board to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities or for other reasons, the developer shall pay his share of the costs of the future improvements to the Village in escrow prior to signing of the final subdivision plat, or the developer may post a bond ensuring completion of said improvements upon demand of the Village. The Village shall refund any funds so paid if not used for their intended purpose; and refund shall be made when the Board of Trustees determines that said funds shall not be so used.

§ 118-19. Staged construction.

In the approval of a final subdivision plat, the Planning Board may require the construction of buildings on individual lots in a specified sequence where the Board finds that such staging is related to the public health, safety and welfare.

§ 118-20. Modification of requirements.

If, at any time, either before or during the course of construction of the required

improvements, it is determined by the Planning Board that unforeseen conditions make it necessary to modify the location or design of any improvements, the Board may modify the terms and conditions of the approval so as to require such changes as may be necessary to comply with the spirit and intent of the Board's original approval and to conform to accepted engineering practices.

ARTICLE V

Design Requirements

§ 118-21. Minimum standards.

The Planning Board, in considering an application for the subdivision of land, shall be guided by the following considerations and standards, which standards shall be deemed to be the minimum requirements for the convenience, health, safety and welfare of the Village.

§ 118-22. General requirements.

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Land subject to such hazards shall not be subdivided nor developed for residential purposes nor for such other uses as may increase danger to health, life or property or aggravate a flood hazard, but such land may be set aside for such uses as shall not involve such danger nor produce unsatisfactory living conditions.
- B. Preservation of natural features.
 - (1) Land to be subdivided shall be designed in reasonable conformity to existing topography in order to minimize grading, cut and fill and to retain, insofar as possible, the natural contours, to limit stormwater runoff and to conserve the natural vegetative cover and soil. No tree, topsoil or excavated material shall be removed from its natural position except where necessary and incidental to the improvement of lots and the construction of streets and related facilities in accordance with the approved plan. Topsoil shall be restored to a depth of at least six inches and properly seeded and fertilized in those disturbed areas not occupied by buildings or structures.
 - (2) Existing natural features which are of ecological, aesthetic or scenic value to residential development or to the Village as a whole, such as wetlands, watercourses, water bodies, rock formations, stands of trees, historic spots and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision, and, where appropriate, the Planning Board may require the inclusion of such features in permanent reservations.
 - (3) In furtherance of the provisions of this section, the provisions of Chapter 119 of this Code shall be followed where applicable. [Added 3-2-1998 by L.L. No. 1-1998]
- C. Frontage on improved streets. The area proposed to be subdivided shall have frontage on and direct access to an existing Village, town, county or state highway or a street shown on a plat approved by the Planning Board of the Village of Pomona.

If such street is private, it shall be improved to the satisfaction of the Planning Board or there shall be a bond held by the Village to guarantee such improvement.

§ 118-23. Streets.

- A. Location, width and improvement. Streets shall be suitably located, of sufficient width and adequately improved to accommodate the expected traffic and to afford satisfactory access to police, fire-fighting, snow removal and other utility and road maintenance equipment and shall be coordinated so as to compose a safe and convenient system.
- B. Relation to topography. Streets shall be appropriately related to the natural topography and shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. A combination of steep grades and curves shall be avoided.
- C. Intersections. Cross (four-cornered) street intersections shall be avoided insofar as possible, except at important traffic locations. A distance at least equal to the minimum required lot width, but not less than 150 feet, shall be maintained between center lines of offset intersecting streets. Within 60 feet of the center of an intersection, streets shall be at approximately right angles and grades shall be limited to 1.5%. When two streets intersect at an angle of less than 75°, special pavement, channelization, right-of-way and/or sight easement restrictions may be required by the Planning Board.
- D. Continuation of streets into adjacent properties.
 - (1) The arrangement of streets shall provide for their construction between adjacent properties where such continuation is determined necessary for proper traffic movement, effective fire protection, efficient provision of utilities, snow removal and other services. Alternatively, if a street continuation is not determined to be warranted by the circumstances or would result in unsafe traffic conditions or otherwise jeopardize the public safety and welfare, the Planning Board may require such street to be terminated short of the boundary lines of the subdivision.
 - (2) Where a continuation of a street beyond the boundaries of a subdivision is warranted, but the adjacent property is undeveloped and the street must dead-end temporarily, the Planning Board may require that the right-of-way and all improvements be extended to the property line. A temporary circular turnaround shall be provided on all temporary dead-end streets in excess of 100 feet in length, with a notation on the plat that land outside the normal street right-of-way shall revert to abutting property owners upon continuation of the street. The length of temporary dead-end streets shall normally be limited to not more than double the permitted length of permanent dead-end streets.
 - (3) Where a turnaround exists at the end of a street within an adjoining development to which a proposed street is to connect, the applicant may be required to remove the portions of the turnaround pavement outside of the normal width of the traveled way, perform any necessary reconstruction of the

pavement edge, construct continuations of any existing driveways to the new pavement edge and regrade, seed and drain the disturbed areas in such a manner as to blend them in with the surrounding landscape.

- E. Permanent dead-end streets. Where a street does not extend to a boundary of a subdivision and its future continuation is not required by the Board, it shall be separated from such boundary by a distance not less than the minimum required lot depth. The Planning Board may require the reservation of an easement to the boundary to accommodate utilities, drainage facilities and/or pedestrian traffic. A circular turnaround shall be provided at the end of a permanent dead-end street. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length, exclusive of the turnaround, to six times the minimum lot width for the zoning district in which they are located. [Amended 2-22-1999 by L.L. No. 3-1999]
- F. Solar access considerations. To permit maximum solar access to proposed lots and future buildings, wherever reasonably feasible, consistent with other appropriate design considerations, new streets shall be located on an east-west axis. This encourages house siting with the maximum exposure of roof and wall area to the sun. The Board shall also consider the slope of the property and the nature and location of existing vegetation as they affect solar access.
- G. Street names. The Planning Board shall recommend to the Board of Trustees the names of new streets. Street names shall be sufficiently different in sound and in spelling from other names in the Village so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name. Proposed street names shall be reviewed by the local Fire Department and post office. The Board of Trustees shall adopt the names of streets.
- H. Design standards for new streets. Streets shall meet the following design standards. Street classifications may be determined by the Planning Board. Standards are not shown for streets which would be built by the state or county.
 - (1) Minimum width of traveled way.
 - (a) Local street: 24 feet with shoulders.
 - (b) Collector street: 30 feet with shoulders.
 - (2) Road pavement, shoulders, drainage structures, curbs, turnarounds, etc.: see construction standards and specifications.⁶² Concrete curbs are required for all roads where sidewalks are required.
 - (3) The ten-foot-wide right-of-way immediately adjacent to road pavement shall be constructed at the same grade as the paved portion of the road. In the event construction of said grade would cause environmental impacts and/or destruction of the natural terrain and topography of said ten-foot right-of-way, the Planning Board may recommend that the flat grade of the right-of-way be

⁶². Editor's Note: See Ch. A134, Street Specifications.